



**DEPARTMENT OF FAIR EMPLOYMENT
AND HOUSING
ENFORCEMENT DIVISION
*DIRECTIVE***

**DIRECTIVE NUMBER
236
DISTRIBUTION DATE
April 19, 2005**

1. **SUBJECT:** U.S. IMMIGRATION REFORM AND CONTROL ACT (IRCA)
2. **PURPOSE:** To set forth the procedures for distribution of the IRCA Notice handouts to individuals whose claim may fall under IRCA and the forwarding of documentation to the U.S. Department of Justice, Office of Special Counsel.
3. **BACKGROUND:** The Immigration Reform and Control Act of 1987 (IRCA) prohibits employment discrimination based on national origin and citizenship status. There are circumstances where individuals have a concurrent right to file an IRCA complaint with the U.S. Department of Justice. IRCA covers national origin complaints against all employers of four to fourteen employees (complaints against employers with 15 or more employees would be handled by EEOC). Complaints must be filed with the U.S. Department of Justice, Office of Special Counsel for Immigration in Washington, D.C., within 180 days of the alleged act. Based on the Memorandum of Understanding between the U.S. Department of Justice, Office of Special Counsel, and the California Department of Fair Employment and Housing (DFEH) signed on October 25, 2000, the DFEH is required to notify the Office of Special Counsel of any potential IRCA case that is brought to DFEH's attention during intake.
4. **PROCEDURES:**
 - A. **IRCA Notice:**
 - 1) Consultant staff is responsible for distributing the informational notice to all complainants who are alleging national origin and/or citizenship discrimination complaints, regardless of the intake decision, the number of employees, or the date of harm. The notice (DFEH-100-18, The Immigration Reform and Control Act [IRCA] Prohibits Employment Discrimination Based on National Origin and Citizenship Status, What You Should Know) is in English and Spanish, printed back-to-back.

- 2) A supply of the notice should be displayed at the front counter in each District Office.
- 3) District Administrators are to ensure that District Office staff is familiar with the notice and the requirement that the handout be given to each complainant that has a potential IRCA complaint.

B. Forwarding of Complaints to the United States Department of Justice, Office of Special Counsel for Immigration Related Unfair Employment Practices:

- 1) By the 5th of each month, the Research Analyst for the Enforcement Division located in Headquarters, will produce a "List of Potential IRCA Cases" from the Case Management Information System (CMIS) of all cases that meet the IRCA criteria.
- 2) Upon notification by the Research Analyst, each District Office will fax a copy of the complaint, Pre-Complaint Questionnaire, and intake notes for each case on the list.
- 3) The Research Analyst will provide the documents to the Deputy Director, Enforcement Division.
- 4) The Deputy Director, Enforcement Division, will send the documents with an accompanying letter to the Office of Special Counsel for Immigration Related Unfair Employment Practices at the United States Department of Justice.

5. APPROVAL:

Suzanne M. Ambrose, Director

Date